

IN THE SENATE OF THE UNITED STATES.

MARCH 24, 1858.—Ordered to be printed.

Mr. SIMMONS made the following

REPORT.

[To accompany Bill S. 212.]

The Committee on Claims, to whom was referred the memorial of Joseph C. G. Kennedy, in relation to his compensation as Superintending Clerk of the Census, report:

This claim was fully examined by the Senate committee of claims of the last Congress, and upon a review of the case this committee concur in the report then made, which is hereto annexed as a part of this report.

IN THE SENATE OF THE UNITED STATES, *January 20, 1857.*

Mr. GEYER made the following report.

[To accompany Bill S. 510.]

The Committee on Claims, to whom was referred the memorial of Joseph C. G. Kennedy, report:

The census board was constituted by act of 3d March, 1849, with the power to appoint a secretary, but without fixing his compensation.—(9 Stat. 402.) Mr. Kennedy was appointed secretary. The 20th section of the act of May 23, 1850, authorized the allowance to the secretary of the census board of a salary of \$3,000 per annum “during the period he has been in their employ.”—(9 Stat. 432.) The 19th section of the same act provided for the appointment of a superintending clerk of the census, at a salary of \$2,500 per annum. This appointment was also conferred upon Mr. Kennedy, and accepted by him. But as the census board was not dissolved, and as he still continued to act as its secretary, he continued to claim the salary of \$3,000, which the Comptroller of the Treasury refused to allow, on the ground that the office of secretary of the census board was superseded by that of superintending clerk of the census.

In order to settle the question thus raised, the Secretary of the Interior addressed a communication to the census board, inquiring

whether they regarded their labors as ended and their secretary discharged from his duties ; to which the board responded that they did not consider the census board as dissolved, or Mr. Kennedy, its secretary, discharged from duty. This correspondence occurred in September, 1851, and would seem to show that Mr. Kennedy was still performing the duties of secretary of the census board, for at least sixteen months after his entering upon the duties of superintending clerk, and according to usage was entitled to the higher salary applicable to either of the two offices which he filled.

But in consequence of the continued objection of the Comptroller, the Secretary of the Interior in March, 1852, addressed a note to the chairman of the Senate Committee on the Judiciary, suggesting the introduction of a clause into the supplementary census bill, then pending, fixing the salary for the performance of both duties at \$3,000.

With a view, it is presumed, of accomplishing the object desired by the Secretary, a clause was introduced into the supplementary bill "that the twentieth section of the said act [of 23d May, 1850] be amended by striking out the words '*has been*' from the last line, and inserting the words '*may necessarily be*' in lieu thereof." It will be perceived that the effect of this amendment was to provide for the payment of the salary of \$3,000 to the secretary of the census board *during the time he may necessarily be in their employ, instead of during the time he has been in their employ*, as provided in the original act.

At the commencement of the next session of Congress, it was represented to the chairman of the Judiciary Committee of the Senate that the above amendment of the act of 1850 might enable the memorialist to claim and receive the two salaries of secretary of the census board and of superintending clerk, amounting to \$5,500 per annum. This led to the adoption of the joint resolution of 23d December, 1852, which had the effect not only to repeal the above amendment to the act of 1850, but to provide that the act should "be so construed that no allowance as compensation be made to any person for constructive or any other service rendered as secretary to the census board, after the first day of June, 1850."—(10 Stat., 260.)

In reference to this resolution Mr. Downs stated in the Senate, that Mr. Kennedy was "claiming nothing more than the salary of \$3,000, to which he is entitled, and to which he was entitled."—(Congressional Globe, vol. 24, part 3, p. 2226.) And Mr. Meade, of Va., in the House of Representatives, said: "As well as I can recollect, there was an error committed, by which the superintendent of the census might, by the strict letter of that bill, draw his pay both as clerk of the census board and superintendent of the census. When the Senate became aware of this mistake, they sent down to us this joint resolution for its correction. It gives the superintendent *the choice of being paid as clerk of the census board or superintendent of the census.*"

The construction given to the joint resolution by the accounting officers of the treasury is, that it limits the compensation of the memorialist, for all the duties performed by him in either or both capacities, to \$2,500 per annum from the 1st of June, 1850 ; and as he had already been paid at the rate of \$3,000 per annum, up to the

time of the passage of the joint resolution, (December, 1852,) he has been officially called upon to refund to the treasury the \$500 per annum received over that sum. By the act of the 22d of April, 1854, after the memorialist had left the office, the salary was definitely fixed at \$3,000 a year.—(10 Stat. 276.)

In view of all the circumstances, the committee are of opinion that the sum ultimately fixed upon as a proper compensation for the duties of the office, namely, \$3,000 a year, is a reasonable one, and that the memorialist is fairly and equitably entitled to that rate of compensation; and they report a bill accordingly.

The committee report the accompanying bill and recommend its passage.

